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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

PERRY ALAN TAYLOR,

Defendant and Appellant.

F062796

(Super. Ct. No. 1423735)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Stanislaus County. Nancy Ashley, Judge.

Richard Power, under appointment by the Court of Appeal, Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Catherine Chatman and A. Kay Lauterbach, Deputy Attorneys General, for Plaintiff and Respondent.

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\* Before Gomes, Acting P.J., Kane, J. and Franson, J.

This appeal involves two separate actions and appeals, one resolved by a jury verdict of guilty and another by a guilty plea, and the sentences imposed in each. In the present case, No. 1423735 (Case 2), a jury convicted appellant, Perry Alan Taylor, of sale of methamphetamine (Heath & Saf. Code, § 11379, subd. (a)). In a companion case (No. 1425158) (Case 1), Appellant Taylor later pled guilty to false personation (Pen. Code, § 529, subd. (a)(3))<sup>1</sup> and admitted allegations that he had a prior conviction within the meaning of the three strikes law (§ 667, subd. (d)).

A jury convicted appellant, Perry Alan Taylor, in Case 2 of sale of methamphetamine (Heath & Saf. Code, § 11379, subd. (a)). In a separate proceeding the court found true five prior prison term enhancements (Pen. Code, § 667.5, subd. (b)), a prior conviction enhancement (Health & Saf. Code, § 11370.2), and allegations that Taylor had a prior conviction within the meaning of the three strikes law (§ 667, subd. (d)).

On appeal, Taylor contends his abstract of judgment contains an error. We will find merit to this contention and direct the trial court to modify Taylor's abstract of judgment. In all other respects, we affirm.

### **FACTS**

On September 21, 2010, appellant sold .15 grams of methamphetamine to a confidential informant during a "buy/bust" operation. Taylor was arrested after he was contacted by police officers and a consent search of his person uncovered several marked bills that were used in the undercover operation.

On May 10, 2011, the district attorney filed a first amended information charging Taylor with sale of methamphetamine (count 1) and transportation of methamphetamine

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated. Additionally, section 529, subdivision (3) was renumbered to section 529, subdivision (a)(3) effective April 4, 2011, and operative on October 1, 2011. (Stats. 2011, ch. 15, § 381.)

(count 2/Health & Saf. Code, § 11379, subd. (a)). The information also alleged a prior conviction enhancement, five prior prison term enhancements, and that Taylor had a prior conviction within the meaning of the three strikes law.

On May 20, 2011, a jury convicted Taylor of the sale of methamphetamine count and the court dismissed the transportation count. In a separate proceeding the court found true the five prior prison term enhancements, the prior conviction enhancement, and the allegations that Taylor had a prior conviction within the meaning of the three strikes law.

On May 23, 2011, in Case 1, Taylor pled guilty to false personation (§ 592, subd. (a)(3)) and admitted allegations that he had a prior conviction within the meaning of the three strikes law. Taylor's plea bargain in that case also provided that Taylor would be sentenced to a 16-month term on his false personation conviction, which would be imposed consecutive to the sentence he received in the instant case.

On June 20, 2011, the court sentenced Taylor in the instant case, and in Case 1, to an aggregate term of 15 years 4 months as follows: the midterm of three years on his sale conviction in the instant case, doubled to six years because of Taylor's prior strike conviction, a three-year prior conviction enhancement in that count, a 16-month term (one-third the middle term of two years doubled to 16 months because of Taylor's strike conviction) on his false personation conviction in Case 1, and five 1-year prior prison term enhancements.

### **DISCUSSION**

Taylor's abstract of judgment states that the court ordered him to pay a probation preparation fee of \$900 pursuant to section 1203.11. Taylor contends the court imposed the probation preparation fee pursuant to section 1203.1b and that his abstract of judgment should be corrected to show that it was imposed pursuant to this latter section. Respondent concedes and we agree.

The probation report recommended that the court order Taylor to pay a probation preparation fee of \$900 pursuant to section 1203.1b. However, the reporter's transcript of Taylor's sentencing hearing indicates that the court ordered Taylor to pay a \$900 "fine" pursuant to "section 1203.1(b)." Taylor's abstract of judgment indicates that the court ordered Taylor to pay a \$900 probation report fee pursuant to "PC 1203.11." It is clear from these circumstances that the \$900 "fine" the court ordered Taylor to pay was actually a probation report preparation fee. Further, since the authority for imposing a probation report fee emanates from section 1203.1b,<sup>2</sup> it appears that the court reporter erred in transcribing this section in the reporter's transcript as section 1203.1(b) and that the abstract of judgment erroneously indicates that the probation fee was imposed pursuant to section 1203.11. Accordingly, we will direct the trial court to issue an amended abstract of judgment that cites section 1203.1b as the authority for the order requiring Taylor to pay a \$900 probation report preparation fee.

### **DISPOSITION**

The trial court is directed to issue an amended abstract of judgment in Cases 1 (No. 1425158) and 2 (No. 1423735) which shows that the court imposed the \$900 probation report preparation fee pursuant to section 1203.1b and to forward a certified copy to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

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<sup>2</sup> Section 1203.1b, subdivision (a) provides, in pertinent part, "In any case in which a defendant is convicted of an offense and is the subject of any preplea or presentence investigation and report, whether or not probation supervision is ordered by the court, and in any case in which a defendant is granted probation or given a conditional sentence, the probation officer, or his or her authorized representative, taking into account any amount that the defendant is ordered to pay in fines, assessments, and restitution, shall make a determination of the ability of the defendant to pay all or a portion of the reasonable cost of any probation supervision or a conditional sentence, of conducting any preplea investigation and preparing any preplea report pursuant to Section 1203.7, of conducting any presentence investigation and preparing any presentence report made pursuant to Section 1203 ...."